

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs June 17, 2003

**STATE OF TENNESSEE v. JOHN WILLIE STONE**

**Direct Appeal from the Circuit Court for Bedford County  
No. 14980     Lee Russell, Judge**

---

**No. M2002-01268-CCA-R3-CD - Filed September 30, 2003**

---

Following a jury trial in the Circuit Court of Bedford County, Defendant, John Willie Stone, was convicted of burglary of an automobile, a Class E felony, in violation of Tenn. Code Ann. § 39-14-402(a)(4). On appeal, Defendant challenges the sufficiency of the evidence to support the conviction. After a careful review of the evidence, we affirm the judgment of the trial court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Trial Court Affirmed**

JERRY L. SMITH, J., delivered the opinion of the court, in which JOHN EVERETT WILLIAMS and ROBERT W. WEDEMEYER, JJ., joined.

Donna Leigh Hargrove, District Public Defender; Andrew Jackson Dearing, III, Assistant Public Defender, for the appellant, John Willie Stone.

Paul G. Summers, Attorney General and Reporter; Brent C. Cherry, Assistant Attorney General; William Michael McCown, District Attorney General; Michael D. Randles, Assistant District Attorney General, for the appellee, the State of Tennessee.

**OPINION**

As relevant to this case, the statutory elements of burglary of an automobile are as follows: (1) without the effective consent of the automobile's owner, (2) the defendant enters an automobile with intent to commit a theft, and (3) the defendant acts intentionally, knowingly, or recklessly. Tenn. Code Ann. § 39-14-402(a)(4) (1997). "Enter" means an intrusion of any part of the body. Tenn. Code Ann. § 39-14-402(b)(1) (1997).

With these statutory requirements in mind, we examine the proof adduced at trial. On the evening of July 14, 2001, Pamela J. Williams was working at Players' Billiards, her son's business located on Madison Street in Shelbyville. At some point that night she looked out the back door of the business and saw an African-American male sitting in the driver's seat of her car, leaning over into the passenger side with one foot outside of the car. It appeared as though he was rummaging

around in the glove compartment. Her car was approximately five feet from the back door and was parked slightly to her left, so that she was able to look through the car's windshield and its open driver's side door.

Ms. Williams hollered at the man, and he looked up at her, turned around, and fell out of the car and took off running. Ms. Williams had a phone in her hand and called the police department as she began chasing the man. He ran across Madison Street, and Ms. Williams did not pursue him any farther. The police responded to the scene in a "matter of seconds." Ms. Williams gave the police officer a description of the man who had been inside her car: an African-American male wearing a hat and a t-shirt with writing on it, and short pants that came down almost to his knees. She also told the police officer the general direction in which the man ran.

Ms. Williams testified that a floodlight was over the back door of Players' Billiards and shed light directly on her car. Also, the interior light of the vehicle was turned on when she saw the man inside the car. When she returned to the car, Ms. Williams found that the glove compartment was open, and papers had been pulled out and strewn on the front seat and floorboard, but nothing was missing.

Approximately ten to fifteen minutes after the police had arrived, a police car brought Defendant to the scene of the burglary. Ms. Williams identified Defendant as the perpetrator at that time and again at trial. Defendant was found approximately 200 yards away in the passenger seat of a vehicle belonging to Patsy Prince. The vehicle was parked inside the garage of Ms. Prince's condominium located in the Gatewalk Condominium Complex.

Cody King, a patrolman with the Shelbyville Police Department, was in uniform, but in an unmarked police department Suburban vehicle on Madison Street when the broadcast of the burglary was sent out by the police dispatcher. Officer King was less than one-half mile from Players' Billiards. At the time, he was on "loud music" patrol and was issuing a ticket to a driver in front of "Deals on Wheels." After he had finished writing the ticket, Officer King drove into the nearby Gatewalk Condominium Complex to see if the suspect might be walking through the area. King and another officer found Defendant inside Ms. Prince's car and took him into custody. They then knocked on Ms. Prince's door. When questioned, Ms. Prince advised that she did not know Defendant and had not given Defendant permission to sit inside her car or to be inside of her garage.

After Ms. Prince testified at trial, the State rested. Defendant was the only witness to testify in his case-in-chief. Defendant told the jury that he left home on the evening of July 14, 2001, and walked to the home of his friends Ricky Foster and Michelle Foster, arriving between 8:00 p.m. and 8:30 p.m. He stayed approximately two hours and then began walking back toward his house. He saw a friend, Paula Freeman, and stopped to talk with her. Defendant began to "have words" with Ms. Freeman's son, and they fought. The fight was broken up by people who were present. Defendant was threatened by Ms. Freeman's son, who was holding a tire tool. Defendant left the area, again walking, and headed toward a Bi-Lo store. A police officer in a marked car drove by and

obtained Defendant's identification. The officer told Defendant to have a nice evening and drove away. Defendant resumed walking toward Madison Street. He was near Madison Street when the man with whom he had been fighting drove toward Defendant at a high rate of speed, in a small red truck. The man attempted to run over Defendant, who jumped out of the way and ran "just as fast as [he] could" across Madison Street. Defendant saw a car that he thought belonged to a friend and got inside the vehicle, waiting on his friend to return to the car. He then saw the unmarked SUV driven by Officer King and thought his friend might be returning. Defendant got out of the car and saw that it was instead Officer King.

Defendant denied that he was the person inside Ms. Williams' car at Players' Billiards. He admitted that he did not have permission to be inside Ms. Prince's vehicle at the condominium. He admitted that he was identified by Ms. Williams as the man whom she had seen inside her car after he was taken into custody. On cross-examination, Defendant said his friend's name was "Chris," but he did not know Chris's last name. Defendant explained Ms. Williams' identification of him as being the result of seeing him run across the street while being chased by the man driving the small red truck.

When an accused challenges the sufficiency of the evidence, this court must review the record to determine if the evidence adduced during the trial was sufficient "to support the finding by the trier of fact of guilt beyond a reasonable doubt." Tenn. R. App. P. 13(e). This rule is applicable to findings of guilt predicated upon direct evidence, circumstantial evidence or a combination of direct and circumstantial evidence. *State v. Brewer*, 932 S.W.2d 1,18 (Tenn. Crim. App. 1996).

In determining the sufficiency of the evidence, this court does not reweigh or reevaluate the evidence. *State v. Cabbage*, 571 S.W.2d 832, 835 (Tenn. 1978). Nor may this court substitute its inferences for those drawn by the trier of fact from circumstantial evidence. *Liakas v. State*, 199 Tenn. 298, 305, 286 S.W.2d 856, 859 (1956). To the contrary, this court is required to afford the state the strongest legitimate view of the evidence contained in the record as well as all reasonable and legitimate inferences which may be drawn from the evidence. *State v. Tuttle*, 914 S.W.2d 926, 932 (Tenn. Crim. App. 1995).

The trier of fact, not this court, resolves questions concerning the credibility of the witnesses, the weight and value to be given the evidence as well as all factual issues raised by the evidence. *Id.* In *State v. Grace*, the Tennessee Supreme Court stated, "[a] guilty verdict by the jury, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts in favor of the theory of the State." 493 S.W.2d 474, 476 (Tenn. 1973).

Because a verdict of guilt removes the presumption of innocence and replaces it with a presumption of guilt, the accused has the burden in this court of illustrating why the evidence is insufficient to support the verdict returned by the trier of fact. *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982); *Grace*, 493 S.W.2d at 476.

Examining the evidence in the light most favorable to the prosecution, as we are required to do, the State proved that Defendant entered the vehicle of Ms. Williams without her consent. She discovered him bent over, rummaging in the glove compartment. Papers from the glove compartment were strewn in the front seat and floorboard of Ms. Williams' vehicle. When confronted by Ms. Williams, Defendant ran from the scene and attempted to hide inside another vehicle in a garage located at a nearby condominium complex. The jury could infer Defendant's intent to commit a theft inside Ms. Williams vehicle by his conduct of pulling papers out of the glove compartment and by running away and hiding when confronted. The jury obviously accredited the testimony of Ms. Williams, who identified Defendant both at trial and shortly after the incident as the man she saw inside her vehicle.

The evidence was sufficient for any rational trier of fact to have found the essential elements of the offense beyond a reasonable doubt. *See* Tenn. R. App. P. 13(e). Defendant is not entitled to relief in this appeal.

### **CONCLUSION**

The judgment of the trial court is affirmed.

---

JERRY L. SMITH, JUDGE